

GUIDELINE FOR PREPARING ENVIRONMENTAL ASSESSMENT PROPOSALS

**Environmental Assessment Branch
Ministry of the Environment
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Guideline for Preparing Environmental Assessment Proposals

1.0 INTRODUCTION

The *Environmental Assessment Act* (EA Act) provides for the protection, conservation and wise management of the environment in Ontario by providing a responsible and accountable process of decision-making. It promotes sound environmental planning by requiring the proponent of a project subject to the EA Act to prepare an environmental assessment (EA) for public and government review before a decision on the approval of the project can occur.

The Ministry of the Environment advocates the preparation of environmental assessment proposals (EAPs) to both solicit public and agency comment on a planning process which a proponent proposes to follow and to provide a well-considered framework for meeting subsection 5(3) of the EA Act. This guideline is intended to assist proponents in preparing EAPs and to support the objectives of the EA Act to ensure sound environmental planning.

1.1 PURPOSE

The Environmental Assessment Branch recognizes that proponents of undertakings subject to the *Environmental Assessment Act* require direction on how to plan environmental assessments. The purpose of this guidance document is to assist proponents in their project planning by:

- (1) introducing the concept of an Environmental Assessment Proposal (EAP) and its benefits in the EA review and approval process;
- (2) setting out the content requirements for an EAP;
- (3) explaining the link between an EAP and the EA process.

EAPs are not required by the *Environmental Assessment Act*, but are recommended to be prepared early in a proponent's environmental assessment planning. This guideline is not intended to delineate the requirements of the EA Act, nor the current practices and policies relating to the administration of the Act. Information on these matters can be found in the Ministry's "*Interim Guidelines on Environmental Assessment Planning and Approvals*" (1989), which interpret the legal framework and discuss the basic principles associated with environmental assessment planning and decision-making. Information on the Ministry's policy on pre-submission public and agency consultation can be found in

"Guidelines and Policy on Pre-Submission Consultation in the EA Process" (1987).

Notwithstanding this guideline on EAPs, proponents proceeding through the EA review and approval process must meet the full requirements of the EA Act.

In the case of any disagreement or uncertainty, the wording and intent of the *Environmental Assessment Act* and its regulations shall prevail. Further information on EAPs can be obtained by contacting the Environmental Assessment Branch of the Ministry of the Environment at (416) 440-3450.

2.0 ENVIRONMENTAL ASSESSMENT PROPOSALS

2.1 DEFINITION

Experiences with Ontario's environmental assessment program demonstrate that there is a marked benefit to all stakeholders when proponents state their objectives clearly and early enough in the EA planning process to encourage meaningful public involvement and to address any deficiencies prior to decisions being made.

An environmental assessment proposal, or an EAP, is a document which outlines the proponent's intended environmental planning process under the EA Act. It is not meant to represent a draft or "mini-EA". Its function is to set out the proponent's plan for addressing the requirements of the Act, and to share this basic information with potentially interested parties in order to initiate discussion, identify concerns and stimulate conflict resolution early in the process.

In an EAP, a proponent should:

- (1) describe the problem or opportunity being addressed;
- (2) delineate the proposed study area;
- (3) define screening criteria for identifying alternatives;
- (4) propose reasonable alternatives and list preliminary evaluation criteria to be used for choosing between alternatives;
- (5) describe any associated planning and decision-making related to the study of the problem or opportunity;
- (6) outline a public and agency consultation plan, including methods of consultation, opportunities to influence decision-making, a tentative schedule, and appropriate contacts;
- (7) include a listing of issues and concerns, and describe preliminary approaches for resolving concerns raised by the community and agencies;
- (8) indicate supporting studies that will be undertaken; and,
- (9) describe the extent of documentation that will be prepared for the planning process.

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Detailed information on the contents outlined above is contained in section 3. An EAP should be prepared as early as possible in the proponent's planning process to maximize the benefits of input received from public and agency consultation. Clarity and conciseness in an EAP are essential as a lengthy or unfocused document can deter public input in EA planning. The length of an EAP however, will vary and will be determined by the particular problem or opportunity being addressed.

2.2 BENEFITS

EAPs are not yet formally recognized in the EA Act, but are supported by the Ministry of the Environment as a practical tool for contributing to effective environmental planning under the Act. The benefits of EAP preparation include:

- (1) enabling proponents to receive early guidance from the Ministry of the Environment and government reviewers on the acceptability of their EA planning process with respect to the EA review and potential board hearing;
- (2) facilitating early consultation between interested parties by providing a mutual starting point for discussion;
- (3) providing the parameters of the EA study to interested parties early in the EA process so that input can be received by the proponent;
- (4) establishing a framework for proponents to focus their environmental assessment planning and documentation under the EA Act;
- (5) assisting in the early identification and resolution of problem/conflict areas; and,
- (6) enhancing cost effectiveness, reducing overall time requirements and delivering clarity to the EA process.

A well-considered and focused EAP can result in the above benefits and ultimately lead to an expedited government review of the EA.

3.0 CONTENTS OF AN ENVIRONMENTAL ASSESSMENT PROPOSAL

The proponent should ensure that an EAP is clear, concise, logical and accessible. It should be written and presented in a language and format that is understandable to all potentially interested parties. Technical jargon should be avoided, and relevant issues should be clearly explained. The proponent should also identify areas where information is not yet available, and the input of others in the planning process should be encouraged. A detailed description of the recommended contents is outlined below.

3.1 STATEMENT OF PROBLEM OR OPPORTUNITY

Pursuant to the Ministry's *Interim Guidelines on Environmental Assessment Planning and Approvals*, the EA Branch encourages proponents, at the start of the planning process, to describe the problem being addressed, the opportunity being pursued, or the purpose of the undertaking. In the EAP, this description is essential in providing a basis to identify alternatives for evaluation.

This section of an EAP should:

- describe the purpose of the planning being undertaken by the proponent; that is, identify the problem or opportunity that is being addressed in the EA study or the purpose of the undertaking;
- provide the rationale for defining the problem/opportunity or purpose; and,
- ensure that the statement of the problem/opportunity or purpose is broad enough to facilitate the examination of reasonable alternatives in the environmental assessment, in accordance with subsection 5(3) of the EA Act.

3.2 DESCRIPTION OF PROPOSED STUDY AREA

At the outset of the planning process, the proponent should consider a geographic study area for the EA. This study area should be clearly defined in the EAP. Specifically, the proponent should:

- describe the proposed geographic area of study;
- include any relevant maps outlining the study area;
- address any factors and/or constraints which dictate the proposed study area;
- describe the link between the study area, problem/opportunity and the consideration of alternatives; and,
- indicate how the study area may differ with respect to the physical, biological, economic and social/cultural environments.

The last point is particularly relevant for proponents whose alternatives may have indirect, off-site impacts. Although the information may not be available for inclusion in the EAP, proponents should be aware that both direct and indirect environmental effects will have to be examined in the EA. The study area should include areas where undertakings may be located and where potential effects may occur. The study area should also be broad enough so as not to preclude reasonable alternatives.

It is recognized that private and public sectors may have different constraints with respect to study areas.

3.3 LISTING/DESCRIPTION OF PROPOSED SCREENING CRITERIA

By identifying and employing screening criteria, some alternatives proposed at the start of the planning process are "screened out" or eliminated from further study, thereby leaving a reasonable set of alternatives for evaluation. Screening criteria should be presented in the EAP, supported by statements of rationale and clearly defined.

For the purposes of an EAP, the proponent should:

- list the possible alternatives considered at the outset of the planning process;
- clearly define the proposed screening criteria, including the basis on which they were selected; and
- describe how the screening criteria will be used to "screen" or narrow the preliminary list of alternatives to a reasonable range.

Including screening criteria in the EAP shows the public and agencies what initial alternatives were considered, and the reasons why they have been eliminated from further evaluation. Public and agency input may also assist the proponent in re-defining or amending the screening criteria, if appropriate.

3.4 LISTING OF REASONABLE ALTERNATIVES TO BE CONSIDERED AND PROPOSED EVALUATION CRITERIA

The consideration of alternatives is a fundamental tenet of the EA Act. At the outset of the planning process, the proponent must be aware of the need to address both "alternatives to" the proposed undertaking, and "alternative methods" of carrying out the proposed undertaking, as required by subsection 5(3) of the EA Act. The null or "do nothing" alternative should also be considered as an "alternative to".

After applying the screening criteria as outlined in section 3.3, a reasonable range of alternatives will remain. For this section in an EAP, the proponent should list these alternatives and outline the criteria upon which they will be evaluated ("evaluation criteria"). The evaluation criteria must reflect the broad definition of environment as contained in subsection 1(c) of the EA Act, that is, they must consider the natural, social, economic, and technical aspects of the environment, and be designed to consider all potential effects of the alternatives. Depending on the study, it may be appropriate for the proponent to also address the alternative methods being considered as well.

By including evaluation criteria in the EAP, the proponent will be able to receive public and government feedback on these criteria, which will then enable the proponent to expand, clarify or further refine the criteria that will be employed in the EA.

For the purposes of an EAP, the proponent should:

- list what reasonable alternatives are being considered, based on the conditions established by the screening criteria;

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- outline the preliminary evaluation criteria, and, if known, the methodology by which alternatives will be evaluated in the EA;
- list, if appropriate, what alternative methods may be considered; and,
- provide a means to facilitate public and agency comment to determine whether the initial consideration of alternatives is appropriate or needs to be expanded, and whether the evaluation criteria need to be clarified or expanded.

3.5 DESCRIPTION OF RELATED PLANNING AND DECISION-MAKING

In certain situations, a proponent's EA study will be affected by previous or related decisions and approvals. This section in the EAP should provide the context for the proponent's planning under the EA Act. Specifically, it should describe:

- special conditions or circumstances that might affect the proponent's plans, ie. other legislation, regulation, government policy, etc.;
- previous, concurrent or anticipated approvals on related undertakings which may affect or bind the manner in which the EA is conducted; and,
- any plans, strategies or other environmental assessments which may set a context or affect the planning for the EA.

If this is included, all participants in the EA process will be working from the same information base, and the likelihood of misunderstandings later on in the process will be significantly reduced.

3.6 DESCRIPTION OF PROPOSED PUBLIC AND AGENCY CONSULTATION PLAN

One of the key benefits of the preparation of an EAP is that it initiates public and agency consultation at an early stage of project planning. Experience in the EA process demonstrates that effective consultation early in the process results in better project planning and issue resolution. The collective experiences of interested participants assist the proponent in proceeding towards development of a preferred alternative.

The proponent should plan a public consultation program for the EA process with a timetable where the opportunities for input into decision-making are clearly outlined. The plan should establish the objectives of the consultation, identify the key players, describe the appropriate combination of consultation activities for the particular project and outline how the public consultation program will be implemented. In addition to the above, the EAP should describe:

- provisions for public and agency notification in advance of the subsequent project milestones and meetings;
- methods of assessing public views, ie. surveys, workshops, meetings, etc.;

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- the role that newsletters, open houses, workshops and other activities will play in the process;
- opportunities for input and review of ongoing matters described in the EAP, and other issues associated with the planning process;
- opportunities/areas where the public may influence decision-making;
- opportunities for participant funding, if appropriate;
- a tentative schedule of the EA process including all anticipated steps leading up to formal submission, including important dates for distribution of new and/or different information and opportunities for review and comment;
- possible staging of approvals; and,
- a listing of all appropriate contact names and telephone numbers for the EA study.

It is critical that public and agency consultation as proposed in the EAP is fair, as well as perceived to be fair and equitable to all parties.

3.7 LISTING OF ISSUES/CONCERNS AND APPROACHES TOWARD RESOLVING CONCERNS

The EAP should contain a listing of any issues or concerns that the proponent feels may be germane to the proposed project. In addition, the EAP should indicate how the proponent will facilitate issue identification throughout the EA process, and what methods are proposed for potential resolution/negotiation of significant matters. The EAP should include:

- a preliminary listing of issues and concerns;
- methods for issue identification throughout the EA process; and,
- approaches toward issue resolution, including a description of proposed alternative dispute resolution mechanisms.

3.8 OUTLINE OF SUPPORTING STUDIES

In an EAP, the proponent should indicate what types of supporting studies will be undertaken during the EA planning process and what studies will be referenced in the EA. In addition, the EAP should include the methods or sources of data collection for the study, ie. where original investigations and research will be conducted, and where secondary data sources will be utilized. This section will provide interested parties with information on the types of work and/or studies to be covered in the EA. Interested parties may request that the proponent consider additional or alternative supporting studies, based on the issues associated with the proposed project.

3.9 EXTENT OF PROPOSED DOCUMENTATION

The EAP should contain a summary of the documentation the proponent is intending to prepare for the EA study. In addition to the EA document itself, this information may include related reports that will be used as background material, technical reports, supporting studies as outlined in 3.8, any summaries of existing research or information, and public information materials prepared as part of the consultation plan. In addition, this section should indicate how, where and when information will be available to the public.

4.0 ENVIRONMENTAL ASSESSMENT PROPOSALS AND THE ENVIRONMENTAL ASSESSMENT PROCESS

The preparation of an EAP is intended to focus a proponent's planning under the *Environmental Assessment Act* and to engage interested parties early in the EA process. The EAP is an organizational tool aimed at increasing the efficiency of the EA process by establishing the framework for EA dialogue. The EAP exercise should serve to consolidate the proponent's EA planning, make it accessible to stakeholders in a concise and understandable manner, and generate feedback at an early stage of project planning.

At the EAP stage, it is acknowledged that the proponent will not have all the information available to fulfil subsection 5(3) of the EA Act. The EAP, however, is predicated on the planning process that 5(3) sets out. The statement of the problem/opportunity being addressed or the purpose of the undertaking, the study area, and the screening criteria all assist in focusing the proponent on a reasonable set of alternatives for the study, and eventually the choice of a preferred alternative. Therefore, the preparation of an EAP, although separate from the preparation of an EA document, should not be viewed as a discrete exercise or an additional layering of formality in the EA process.

Based on this generic guideline, a proponent would:

- prepare a project-specific EAP;
- circulate the draft EAP to the public and government agencies for review and comment (the proponent should pay special attention to seeking out the potentially affected public, as they may not be readily identifiable this early in the process);
- finalize the EAP based on comments received; and,
- continue the planning process and preparation of the EA document based upon the framework established in the EAP, and the comments received.

The Environmental Assessment Branch of the Ministry of the Environment would return comment on the EAP to the proponent. The government agencies would also provide comments to the proponent directly. The co-ordination of these comments is the responsibility of the proponent during the EAP stage.

When reviewing the formal EA submission, the EA Branch would pay close attention to all comments provided to the proponent at the EAP stage. Further, the EA Branch

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would expect that comments made by the public and the review agencies on the EA document would be consistent with their comments on the EAP, unless new information or a different approach is presented in the EA. It is expected that the EA Board would also observe the planning and consultation set out in the proponent's EAP, as amended by the public and agency EAP review, if the EA is referred to the board for a hearing.

The preparation and review of an EAP should not add cost or time to the EA process. Instead, the upfront time invested in EAP preparation and execution will facilitate the actual planning and drafting of the EA, as well as the review and approval of the formal EA. The proponent will benefit by preparing an EAP as misunderstandings, changes in ministry positions and study costs are all reduced. As such, the total time required in the EA process will also decrease.

5.0 SUMMARY

Environmental assessment planning in Ontario is an open and consultative process. The contents of an EAP should enhance this process by facilitating early public and agency consultation and by focusing project planning.

It is recognized that different projects require different approaches. An EAP can be flexible while promoting clarity and direction in an EA study. It is anticipated that this clarity and direction early in the EA process will contribute to sound environmental planning and improved decision-making under the *Environmental Assessment Act*.

APPENDICES

- I. Environmental Assessment Glossary**
- II. Listing of Ministry of Environment, Environmental Assessment Policies**

APPENDIX 1

EA Glossary

Environmental Assessment

EA is the identification and evaluation of the effects of an undertaking and its alternatives on the environment. The term EA refers both to the process of identifying and evaluating the alternatives, and to the document which describes the carrying out of that process resulting in the selection of the proposed undertaking. The contents of an EA are described in subsection 5(3) of the EA Act.

Environmental Assessment Board

The Environmental Assessment Board is a quasi-judicial body which has the authority to conduct hearings as required by the Minister under the EA Act. The Board has the authority to decide on questions of acceptance or amendment and acceptance of the EA, and approval or rejection of the undertaking. The Board also has functions under the OWR Act and the EP Act. Under those Acts, the Board makes recommendations, rather than decisions, after hearings on certain water, sewage and waste matters.

Environmental Assessment Proposal

An Environmental Assessment Proposal, or EAP, is a document prepared by a proponent which outlines how the proponent plans to address the requirements of the EA Act. It is prepared at an early stage of project planning in order to initiate discussion, identify concerns and stimulate conflict resolution among stakeholders.

Hearing

A hearing on an EA may be conducted by the Environmental Assessment Board or a Joint Board on whether to accept or amend and accept an EA, and whether to approve the undertaking with or without terms and conditions or reject the undertaking.

Proponent

A proponent is the person, agency or government ministry who carries out or proposes to carry out an undertaking, or is the owner or person having charge, management or control of an undertaking (clause 1(k)).

Reviewers

Reviewers, or members of the government review team, are staff of various ministries and agencies assigned to contribute to the preparation of the review of an EA.

Stakeholder

Any individual, agency or group which may have direct or indirect interest in a proposed project.

Undertaking

An undertaking is an enterprise, activity or proposal, plan or program in respect of an enterprise or activity which a proponent initiates or proposes to initiate (section 3). The status of a given undertaking may be determined by consulting section 3 and clause 1(o) of the EA Act, and the regulations, exemption orders and approvals issued under the EA Act.

**MINISTRY OF ENVIRONMENT
ENVIRONMENTAL ASSESSMENT POLICIES**

- *Expert Witnesses Before Environmental Assessment Board Hearings (1981)*
- *Guidelines and Policy on Pre-Submission Consultation in the EA Process (1987)*
- *Interim Expansion of Municipal Landfills (1989)*
- *Interim Guidelines on Environmental Assessment Planning and Approvals (1989)*
- *The Role of the Review and the Review Participants in the EA Process (1987)*
- *Role of the Ministry of Environment at Hearings under the Environmental Assessment Act (1987)*